

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MARC SOVIK,)	
ON BEHALF OF HIMSELF and)	
ALL OTHERS Similarly-situated,)	
)	
Plaintiff,)	Case No. 3:11-0018
)	District Judge Trauger
v.)	Magistrate Judge Knowles
)	
DUCKS UNLIMITED, INC.,)	
)	
Defendant.)	
)	

MOTION TO DISMISS OR IN THE ALTERNATIVE TO TRANSFER VENUE

Pursuant to Fed. R. Civ. Proc. 12(b)(6), Defendant Ducks Unlimited, Inc. (“Ducks” or “Defendant”) respectfully moves this Court to dismiss Plaintiff’s claims with prejudice in their entirety, based on the doctrine of judicial estoppel which operates to bar Plaintiff’s claims due to Plaintiff’s failure to disclose his claims in a prior bankruptcy proceeding. In the alternative, Defendant moves the Court, pursuant to Fed. R. Civ. P. 12(b)(3), to dismiss Plaintiff’s claims for improper venue or to transfer the matter to the United States District Court for the Western District of Tennessee. In support of its Motion, Defendant relies upon the supporting memorandum of facts and law submitted contemporaneously herewith, as well as the entire record in this matter.

WHEREFORE, PREMISES CONSIDERED, Defendant moves this Court to dismiss Plaintiff’s claims in their entirety with prejudice or, in the alternative, to transfer this matter to the United States District Court for the Western District of Tennessee.

Respectfully submitted,

/s/ Paul E. Prather

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Attorneys for Defendant Ducks Unlimited, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of March, 2011, I electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of such filing to the following:

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